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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/738,378	12/17/2003	Francisco Javier Vicinay	2798-1-001	7275
7590 01/23/2009 KLAUBER & JACKSON 4th Fl.			EXAMINER	
			UNDERDAHL, THANE E	
411 Hackensack Avenue Hackensack, NJ 07601			ART UNIT	PAPER NUMBER
			1651	
			MAIL DATE	DELIVERY MODE
			01/23/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)	
10/738,378	VICINAY ET AL.	
Examiner	Art Unit	
THANE UNDERDAHL	1651	

1. ☑ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant time timely file one of the following replies: (1) an amendment, afficiation, or other vertices, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods: a) ☐ The period for reply expires months from the mailing date of the final rejection. b) ☑ The period for reply expires on: (1) the mailing date of the final rejection. b) ☑ The period for reply expires on: (1) the mailing date of the final rejection. c) ☑ The period for reply expires on: (1) the mailing date of the final rejection. b) ☑ The period for reply expires on: (1) the mailing date of the final rejection. c) ☑ The period for reply expires on: (1) the mailing date of the final rejection. Examiner Note: if los it is checked, check either box (a) or (5). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS from the mailing date of the final rejection. Examiner Note: if los it is checked, check either box (a) or (5). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS from the mailing date of the final rejection with the period of the period of the final rejection on the case of the may be colorable of the final rejection of the case of the mail of the final rejection of the case of the final date of the final rejection of the case of the individual of the final rejection, or (2) as set for in (1) above, if checked. Any reply recovered by the Office later than three months after the mailing date of the final rejection, or (2) as set for in it is obvious of Appeal was filed on		
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application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 1.14. The reply must be filed within one of the following time periods: a) The period for reply expires	THE REPLY FILED <u>02 January 2009</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.	
a) ☐ The period for reply expiresmonths from the mailing date of the final rejection. b) ☐ The period for reply expires on. (1) the mailing date of the Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. Exement Note: If tox 1 is checked, check other box (6) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f). Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee was feed to the final rejection, and the period of extension and the corresponding amount of the fee. The appropriate extension fee to the period of the final rejection, over if timely filed, may reduce any semed patent term adjustment. See 37 CFR 1.704(b). NOTICE OF APPEAL 2. ☐ The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). The proposed amendment (s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) Merchanical Properties of the period set for the previous fee. (b) The proposed amendment(s) filed after a final rejecti	application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time	е
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5. Applicant's reply has overcome the following rejection(s): 6. Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). 7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) objected to: Claim(s) rejected: 1-4.6-32.34.36.37 and 39. Claim(s) withdrawn from consideration: 33. 35. 38 and 40-44. AFFIDAVIT OR OTHER EVIDENCE 8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). 9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). 10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see below. 12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s)	appeal; and/or (d) They present additional claims without canceling a corresponding number of finally rejected claims.	
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Continuation Sheet (PTO-303)

Application No.

Claim 1 has been amended to read "a proportion at least 68:32 by weight to the proportion by weight of 2-O-Beta-Dgalactopyranosyl-D-xylose". This new ratio in light of the limitation that the ratio compared by weight is a new concept that was not previously presented. Previously the Applicant presented "an amount at least 68% to 32% proportional to the amount of 2-O-Beta-D-galactopyranosyl-D-xylose". The new amendments change the reference point of the proportion to the weights of the sugars. Furthermore, the previous proportion was a range with two distinct points between 32% and 68%. This new ratio changes the range of the proportion to the range at least 68:32, which conceivably could be 68:32 to 99:1. Therefore the amendment presents a new concept after final rejection and as such will not be entered at this time.